

(d) Quorum:

(1) A majority of the Members of the Select Committee shall constitute a quorum for the transaction of business involving complaints and allegations of misconduct, including the consideration of matters involving sworn complaints, unsworn allegations or information, resultant preliminary inquiries, initial reviews, investigations, hearings, recommendations or reports and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three Members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one Member of the quorum is a Member of the majority Party and one Member of the quorum is a Member of the minority Party. During the transaction of routine business any Member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the Members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 6 and any deposition taken outside the presence of a Member under Rule 7, one Member shall constitute a quorum for hearing testimony, provided that all Members have been given notice of the hearing and the Chairman has designated a Member of the majority Party and the Vice Chairman has designated a Member of the minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) Order of Business: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) Hearings Announcements: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish such announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) Open and Closed Committee Meetings: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5(b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the Members and the staff of the Committee. On the motion of any Member, and with the approval of a majority of the Committee Members present, other individuals may be admitted to an executive session meeting for a specified period or purpose.

(h) Record of Testimony and Committee Action: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness' testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record

in a public session shall be made available to any witness if he so requests. (See Rule 6 on Procedures for Conducting Hearings.)

(i) Secrecy of Executive Testimony and Action and of Complaint Proceedings:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a sworn complaint shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) Release of Reports to Public: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each Member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 9 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) Ineligibility or Disqualification of Members and Staff:

(1) A Member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) the Member's own conduct;

(B) The conduct of any employee or officer that the Member supervises, as defined in paragraph [12] of Rule XXXVII of the Standing Rules of the Senate;

(C) The conduct of any employee or any officer that the Member supervises; or

(D) A complaint, sworn or unsworn, that was filed by a Member, or by any employee or officer that the Member supervises.

(2) If any Committee proceeding appears to relate to a Member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the Member may be ineligible, the Member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the Member may be ineligible to participate in it. If the Member agrees that he or she is ineligible, the Member shall so notify the Chairman or Vice Chairman. If the Member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the Member is not ineligible, the Member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the Member is ineligible, while the Member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The Member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a Member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the Member in question not participating.

(3) A Member may also disqualify himself from participating in a Committee proceeding in other circumstances not listed in subparagraph (k)(1).

(4) The President of the Senate shall be given written notice of the ineligibility or disqualification of any Member from any initial review, investigation, or other proceeding requiring the appointment of another Member in accordance with subparagraph (k)(5).

(5) Whenever a Member of the Committee is ineligible to participate in or disqualifies himself from participating in any initial review, investigation, or other substantial Committee proceeding, another Member of the Senate who is of the same party shall be appointed by the Senate in accordance with the provisions of paragraph 1 of Rule XXIV of the Standing Rules of the Senate, to serve as a Member of the Committee solely for the purposes of that proceeding.

(6) A Member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff Member's own conduct;

(B) the conduct of any employee that the staff Member supervises;

(C) the conduct of any Member, officer or employee for whom the staff Member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff Member. At the direction or with the consent of the staff director or outside counsel, a staff Member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(1) Recorded Votes: Any Member may require a recorded vote on any matter.

(m) Proxies; Recording Votes of Absent Members:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of an initial review or an investigation, or the issuance of a report or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent Member's vote may be announced solely for the purpose of recording the Member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee Member has been informed of the matter on which the vote occurs and has affirmatively requested the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) Approval of Blind Trusts and Foreign Travel Requests Between Sessions and During Extended Recesses: During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV, and to approve or disapprove foreign travel requests which require immediate resolution.

(o) Committee Use of Services or Employees of Other Agencies and Departments: With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis

or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR SWORN COMPLAINTS

(a) Sworn Complaints: Any person may file a sworn complaint with the Committee, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

(b) Form and Content of Complaints: A complaint filed under paragraph (a) shall be in writing and under oath, and shall set forth in simple, concise and direct statements:

(1) The name and legal address of the party filing the complaint (hereinafter, the complainant);

(2) The name and position or title of each Member, officer, or employee of the Senate who is specifically alleged to have engaged in the improper conduct or committed the violation (hereinafter, the respondent);

(3) The nature of the alleged improper conduct or violation, including, if possible, the specific provision of the Senate Code of Official Conduct or other law, rule, or regulation alleged to have been violated.

(4)(A) A statement of the facts within the personal knowledge of the complainant that are alleged to constitute the improper conduct or violation.

(B) The term "personal knowledge" is not intended to and does not limit the complainant's statement to situations that he or she personally witnessed or to activities in which the complainant was a participant.

(C) Where allegations in the sworn complaint are made upon the information and belief of the complainant, the complaint shall so state, and shall set forth the basis for such information and belief.

(5) The complainant must swear that all of the information contained in the complaint either (a) is true, or (b) was obtained under circumstances such that the complainant has sufficient personal knowledge of the source of the information reasonably to believe that it is true. The complainant may so swear either by oath or by solemn affirmation before a notary public or other authorized official.

(6) All documents in the possession of the complainant relevant to or in support of his or her allegations may be appended to the complaint.

(c) Processing of Sworn Complaints:

(1) When the Committee receives a sworn complaint against a Member, officer or employee of the Senate, it shall determine by majority vote whether the complaint is in substantial compliance with paragraph (b) of this rule.

(2) If it is determined by the Committee that a sworn complaint does not substantially comply with the requirements of paragraph (b), complaint shall be returned promptly to the complainant, with a statement explaining how the complaint fails to comply and a copy of the rules for filing sworn complaints. The complainant may resubmit the complaint in the proper form. If the complaint is not revised so that it substantially complies with the stated requirements, the Committee may in its discretion process the complaint in accordance with Rule 3.

(3) A sworn complaint against any Member, officer, or employee of the Senate that is determined by the Committee to be in substantial compliance shall be transmitted to the respondent within five days of the determination. The transmittal notice shall include the date upon which the complaint, was received, a statement that the complaint conforms to the applicable rules, a statement that the Committee will immediately begin an initial review of the complaint, and a statement inviting the respondent to provide any information relevant to the complaint to the Committee. A copy of the Rules of the Committee shall be supplied with the notice.

RULE 3: PROCEDURES ON RECEIPT OF ALLEGATIONS OTHER THAN A SWORN COMPLAINT; PRELIMINARY INQUIRY

(a) Unsworn Allegations or Information: Any Member or Staff Member of the Committee shall report to the Committee, and any other person may report to the Committee, any credible information available to him or her that indicates that any named or unnamed Member, officer or employees of the Senate may have—

(1) violated the Senate Code of Official Conduct;

(2) violated a law;

(3) violated any rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate; or

(4) engaged in improper conduct which may reflect upon the Senate. Such allegations or information may be reported to the Chairman, the Vice Chairman, a Committee Member, or a Committee staff Member.

(b) Sources of Unsworn Allegations or Information: The information to be reported to the Committee under paragraph (a), may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints that do not satisfy all of the requirements of Rule 2;

(2) anonymous or informal complaints, whether or not satisfying the requirements of Rule 2;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) Preliminary Inquiry:

(1) When information is presented to the Committee pursuant to paragraph (a), it shall immediately be transmitted to the Chairman and the Vice Chairman, for one of the following actions:

(A) The Chairman and Vice Chairman, acting jointly, may conduct or may direct the Committee staff to conduct, a preliminary inquiry.

(B) The Chairman and Vice Chairman, acting jointly may present the allegations or information received directly to the Committee for it to determine whether an initial review should be undertaken. (See paragraph (d).)

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Chairman and Vice Chairman deem appropriate to obtain information upon which to make any determination provided for by this Rule.

(3) At the conclusion of a preliminary inquiry, the Chairman and Vice Chairman shall receive a full report of its findings. The Chairman and Vice Chairman, acting jointly, shall then determine what further action, if any, is appropriate in the particular case, including any of the following:

(A) No further action is appropriate, because the alleged improper conduct or violation is clearly not within the jurisdiction of the Committee;

(B) No further action is appropriate, because there is no reason to believe that the alleged improper conduct or violation may have occurred; or

(C) The unsworn allegations or information, and a report on the preliminary inquiry, should be referred to the Committee, to determine whether an initial review should be undertaken. (See paragraph (d).)

(4) If the Chairman and the Vice Chairman are unable to agree on a determination at the conclusion of a preliminary inquiry, then they shall refer the allegations or information to the Committee, with a report on the preliminary inquiry, for the Committee to determine whether an initial review should be undertaken. (See paragraph (d).)

(5) A preliminary inquiry shall be completed within sixty days after the unsworn allegations or information were received by the Chairman and Vice Chairman. The sixty day period may be extended for a specified period by the Chairman and Vice Chairman, acting jointly. A preliminary inquiry is completed when the Chairman and the Vice Chairman have made the determination required by subparagraphs (3) and (4) of this paragraph.

(d) Determination Whether To Conduct an Initial Review: When information or allegations are presented to the Committee by the Chairman and the Vice Chairman, the Committee shall determine whether an initial review should be undertaken.

(1) An initial review shall be undertaken when—

(A) there is reason to believe on the basis of the information before the Committee that the possible improper conduct or violation may be within the jurisdiction of the Committee; and

(B) there is reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred.

(2) The determination whether to undertake an initial review shall be made by recorded vote within thirty days following the Committee's receipt of the unsworn allegations or information from the Chairman or Vice Chairman, or at the first meeting of the Committee thereafter if none occurs within thirty days, unless this time is extended for a specified period by the Committee.

(3) The Committee may determine that an initial review is not warranted because (a) there is no reason to believe on the basis of the information before the Committee that the improper conduct or violation may have occurred, or (b) the improper conduct or violation, even if proven, is not within the jurisdiction of the Committee.

(A) If the Committee determines that an initial review is not warranted, it shall promptly notify the complainant, if any, and any known respondent.

(B) If there is a complainant, he or she may also be invited to submit additional information, and notified of the procedures for filing a sworn complaint. If the complainant later provides additional information, not in the form of a sworn complaint, it shall be handled as a new allegation in accordance with the procedures of Rule 3. If he or she submits a sworn complaint, it shall be handled in accordance with Rule 2.

(4)(A) The Committee may determine that there is reason to believe on the basis of the information before it that the improper conduct or violation may have occurred and may be within the jurisdiction of the Committee, and that an initial review must therefore be conducted.

(B) If the Committee determines that an initial review will be conducted, it shall

promptly notify the complainant, if any, and the respondent, if any.

(C) The notice required under subparagraph (B) shall include a general statement of the information or allegations before the Committee and a statement that the Committee will immediately begin an initial review of the complaint. A copy of the Rules of the Committee shall be supplied with the notice.

(5) If a Member of the Committee believes that the preliminary inquiry has provided sufficient information for the Committee to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the Member may move that the Committee dispense with the initial review and move directly to the determinations described in Rule 4(f). The Committee may adopt such a motion by majority vote of the full Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN INITIAL REVIEW

(a) Basis for Initial Review: The Committee shall promptly commence an initial review whenever it has received either (1) a sworn complaint that the Committee has determined is in substantial compliance with the requirements of Rule 2, or (2) unsworn allegations or information that have caused the Committee to determine in accordance with Rule 3 that an initial review must be conducted.

(b) Scope of Initial Review:

(1) The initial review shall be of such duration and scope as may be necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(2) An initial review may include any inquiries, interviews, sworn statements, depositions, and subpoenas that the Committee deems appropriate to obtain information upon which to make any determination provided for by this Rule.

(c) Opportunity for Response: An initial review may include an opportunity for any known respondent or his designated representative, to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(d) Status Reports: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(e) Final Report: When the initial review is completed, the staff or outside counsel shall make a confidential report to the Committee on findings and recommendations.

(f) Committee Action: As soon as practical following submission of the report on the initial review, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The Committee may determine that there is not such substantial credible evidence. In this case, the Committee shall report its determination to the complainant, if any, and to the respondent, together with an explanation of the basis for the determination. The explanation may be as detailed as the Committee desires, but it is not required to include a complete discussion of the evidence collected in the initial review.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In this case, the Committee may attempt to correct or to prevent such violation by informal methods. The Committee's final determination in this matter shall be reported to the complainant, if any, and to the respondent, if any.

(3) The Committee may determine that there is such substantial credible evidence, but that the alleged violation, if proven, although not of a de minimis nature, would not be sufficiently serious to justify the severe disciplinary actions specified in Senate Resolution 338, 88th Congress, as amended (i.e., for a Member, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or positions of responsibility; or for an officer or employee, suspension or dismissal). In this case, the Committee, by the recorded affirmative vote of at least four Members, may propose a remedy that it deems appropriate. If the respondent agrees to the proposed remedy, a summary of the Committee's conclusions and the remedy proposed and agreed to shall be filed as a public record with the Secretary of the Senate and a notice of the filing shall be printed in the CONGRESSIONAL RECORD.

(4) The Committee may determine, by recorded affirmative vote of at least four Members, that there is such substantial credible evidence, and also either:

(A) that the violation, if proved, would be sufficiently serious to warrant imposition of one of the severe disciplinary actions listed in paragraph (3); or

(B) that the violation, if proven, is less serious, but was not resolved pursuant to the procedure in paragraph (3). In either case, the Committee shall order that an investigation promptly be conducted in accordance with Rule 5.

RULE 5: PROCEDURES FOR CONDUCTING AN INVESTIGATION

(a) Definition of Investigation: An "investigation" is a proceeding undertaken by the Committee, by recorded affirmative vote of at least four Members, after a finding on the basis of an initial review that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within its jurisdiction has occurred.

(b) Scope of Investigation: When the Committee decides to conduct an investigation, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. In the course of the investigation, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct inquiries or interviews, take sworn statements, use compulsory process as described in Rule 7, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make this determination.

(c) Notice to Respondent: The Committee shall give written notice to any known respondent who is the subject of an investigation. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an investigation. The notice shall include a statement of the nature of the possible violation, and a description of the evidence indicating that a possible violation occurred. The Committee shall offer the respondent an opportunity to present a statement or to respond to questions from Members of the Committee, the Committee staff, or outside counsel.

(d) Right to a Hearing: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate.

(e) Progress Report to Committee: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the investigation. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) Report of Investigation:

(1) Upon completion of an investigation, including any hearings held pursuant to Rule 6, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the investigation and which may recommend disciplinary action, if appropriate. Findings of the fact of the investigation shall be detailed in this report whether or not disciplinary action is recommended.

(2) The Committee shall consider the report of the staff or outside counsel promptly following its submission. The Committee shall prepare and submit a report to the Senate, including a recommendation to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No recommendation or resolution of the Committee concerning the investigation of a Member, officer or employee of the Senate may be approved except by the affirmative recorded vote of not less than four Members of the Committee.

(3) Promptly, after the conclusion of the investigation, the Committee's report and recommendation shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation shall be printed and made public, unless the Committee determines by majority vote that it should remain confidential.

RULE 6: PROCEDURES FOR HEARINGS

(a) Right to Hearing: The Committee may hold a public or executive hearing in any inquiry, initial review, investigation, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate. (See Rule 5(d).)

(b) Non-Public Hearings: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) Adjudicatory Hearings: The Committee may, by majority vote, designate any public or executive hearing as an adjudicatory hearing; and, any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) Subpoena Power: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 7.)

(e) Notice of Hearings: The Committee shall make public an announcement of the

date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) Presiding Officer: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee Member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee Member.

(g) Witnesses:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by majority vote, rule that no Member of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness' scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) Right To Testify: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee Member, staff Member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) Conduct of Witnesses and Other Attendees: The Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) Adjudicatory Hearing Procedures:

(1) Notice of hearings: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) Preparation for adjudicatory hearings:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the in-

formation and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(3) Swearing of witnesses: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) Right to counsel: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or legal rights during the testimony.

(5) Right to cross-examine and call witnesses:

(A) In adjudicatory hearings, any respondent who is the subject of an investigation, and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by the party's counsel.

(D) At least one working day before a witness' scheduled appearance, a witness or a witness' counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any Member of the Committee, or by any Committee staff Member if directed by a Committee Member. The witness or witness' counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after the testimony is received.

(6) Admissibility of evidence:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rules shall be final unless reversed or modified by a majority vote of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination, including sexual harassment, or sexual mis-

conduct, by a Member, officer, or employee within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of a majority of the Members of the full Committee that the interests of justice require that such evidence be admitted.

(7) Supplementary hearing procedures: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any Member of the public.

(k) Transcripts:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any Member of the Committee, Committee staff Member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the Member, staff Member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any Member or witness shall return the transcript with suggested corrections to the Committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the Member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a Member or witness if they determine that such Member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness' testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. If any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 7: SUBPOENAS AND DEPOSITIONS

(a) Subpoenas:

(1) Authorization for Issuance: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding.

(2) Signature and Service: All subpoenas shall be signed by the Chairman or the Vice

Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) Withdrawal of Subpoena: The Committee, by majority vote, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) Depositions:

(1) Persons Authorized To Take Depositions: Depositions may be taken by any Member of the Committee, designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) Deposition Notices: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff Member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time before a preliminary inquiry, for the purpose of obtaining information to evaluate unsworn allegations or information, or at any time during a preliminary inquiry, initial review, investigation, or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) Counsel at Depositions: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) Deposition Procedure: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any Member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any Member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no Member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness re-

fuses to testify or produce documents after having been directed to do so.

(5) Filing of Depositions: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, within a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 8: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) Violations of Law: Whenever the Committee determines by majority vote that there is reason to believe that a violation of law may have occurred, it shall report such possible violation to the proper state and federal authorities.

(b) Perjury: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) Legislative Recommendations: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in an initial review, investigation, or other proceeding.

(d) Applicable Rules and Standards of Conduct:

(1) No initial review or investigation shall be made of an alleged violation of any law, rule, regulation, or provision of the Senate Code of Official Conduct which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to, or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the code.

(2) The Committee may conduct an initial review or investigation of an alleged violation of a rule or law which was in effect prior to the enactment of the Senate code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 9: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) Procedures for Handling Committee Sensitive materials:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former member, officer, or employee of the Senate; to allegations or accusation of such conduct; to any resulting preliminary inquiry, initial review, or investigation by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff Member.

(b) Procedures for Handling Classified Materials:

(1) Classified information on material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff Member cleared for access to classified information.

(3) Each Member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff Members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in the Committee's possession.

(c) Procedures for Handling Committee Sensitive and Classified Documents:

(1) Committee Sensitive and classified documents and materials shall be segregated in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each Member of the Committee shall have access to all materials in the Committee's possession. The staffs of Members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be taken by a Member of the Committee staff to the office of a Member of the Committee for his or her examination, but the Committee staff Member shall remain with the Committee Sensitive or classified documents or materials at all times except as specifically authorized by the Chairman or Vice Chairman.

(3) Any Member of the Senate who is not a Member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(4) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a Member of the Committee, or to a staff person of a Committee Member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) Non-Disclosure Policy and Agreement:

(1) Except as provided in the last sentence of this paragraph, no Member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No Member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the non-disclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 10: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by any other methods of coverage, unless the Committee decides by majority vote that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to

radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee Members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, the coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 11: PROCEDURES FOR ADVISORY OPINIONS

(a) When Advisory Opinions Are Rendered.

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) Form of Request: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requestor wishes the Committee to address.

(c) Opportunity for Comment:

(1) The Committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) Issuance of an Advisory Opinion:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by

the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the Chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the Members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) Reliance on Advisory Opinions:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 12: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) Basis for Interpretative Rulings: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining and rule or regulation of the Select Committee on Ethics.

(b) Request for Ruling: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) Adoption of Ruling:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written, interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that it be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the Members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) Publication of Rulings: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance or guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) Reliance on Rulings: Whenever an individual can demonstrate to the Committee's

satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) **Rulings by Committee Staff:** The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 13: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) **Authority To Receive Complaints:** The Committee is directed by section 6(b) of Public Law 9309191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) **Disposition of Complaints:**

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an initial review or investigation, must be summarized, together with the disposition, in a notice promptly transmitted for publication in the Congressional Record.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) **Advisory Opinions and Interpretative Rulings:** Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 11 and 12.

RULE 14: PROCEDURES FOR WAIVERS

(a) **Authority for Waivers:** The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to an employee of the Senate hired on a per diem basis.

(b) **Requests for Waivers:** A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of Rule XXXVII of the Standing Rules of the Senate) should be included with the waiver request.

(c) **Ruling:** The Committee shall rule on a waiver request by recorded vote, with a majority of those voting affirming the decision.

(d) **Availability of Waiver Determinations:** A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 15: DEFINITION OF "OFFICER OR EMPLOYEE"

(a) As used in the applicable resolutions and in these rules and procedures, the term "officer or employee of the Senate" means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A Member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 16: COMMITTEE STAFF

(a) **Committee Policy:**

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(a) Each Member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each Member of the staff shall perform all official duties in a nonpartisan manner.

(4) No Member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No Member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No Member of the staff may make public, without Committee approval, any Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) **Appointment of Staff:**

(1) The appointment of all staff Members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff Members, including a staff recommended by a special counsel, for the purpose of a particular initial review, investigation, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel if necessary or appropriate for any action regarding any

complaint or allegation, initial review, investigation, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any investigation undertaken after an initial review of a sworn complaint, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) **Dismissal of Staff:** A staff Member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee Membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff Member.

(d) **Staff Works for Committee as Whole:** All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) **Notice of Summons To Testify:** Each Member of the Committee staff shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 17: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) **Adoption of Changes in Supplementary Rules:** The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a majority vote of the entire Membership taken at a meeting called with due notice when prior written notice of the proposed change has been provided each Member of the Committee.

(b) **Publication:** Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

ETHICS COMMITTEE INTERIM PROCEDURES UNDER TITLE III OF PUBLIC LAW 102-166, THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

RULE 1. AUTHORITY

The Senate Select Committee on Ethics (the Committee) is authorized by section 308(a) of the Government Employee Rights Act of 1991 (the Act), Title III of the Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1088, to review hearing board decisions in employment discrimination cases filed with the Office of Senate Fair Employment Practices (the Office) under the Act, and by section 307(f) (2) and (3) of the Act to receive referrals for rulings on testimonial objections arising in connection with such cases, and to recommend to the Senate civil or criminal enforcement of hearing board subpoenas.

RULE 2. TIME

2.1 *Computation of Time.*

(a) **Counting days.** A day means calendar day. In computing the time for taking any action required or permitted under these rules to be taken within a specified time, the first day counted shall be the day after the event from which the time period begins to run and the last day counted is the last day for taking the action. When the last day falls on a Saturday, Sunday, or federal government holiday or any other day, other than a Saturday or a Sunday, when the Office is closed, the last day for taking the action

shall be the next day that is not a Saturday, Sunday, or federal government holiday or a day when the Office is closed. Where a prescribed time period is less than seven days, then Saturdays, Sundays, and federal government holidays shall be excluded from the computation of the time period. Federal government holiday means New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, any other day appointed as a holiday by the President or Congress of the United States.

(b) *Added days for mail.* Whenever a party or the Office has the right or is required to do some act within a prescribed period after the date of service of a notice or other paper and the notice or other paper is served upon the party by mail through the United States Postal Service, 3 days shall be added to the prescribed period. This additional 3 days does not apply to the request for Committee review under Rule 3.

2.2 *Service and filing.* Except as otherwise provided in Rule 3.1, a document required under these rules to be submitted to or filed with the Committee or the Office, or served on a party or the Office within a specified time shall be deemed timely submitted, filed, or served if it is received by the Committee, the Office or the party, or if mailed, it is postmarked, on or before the last day of the applicable time period.

2.3 *Extension of time.* Upon written request of the Office or a party, the Committee may extend the time for taking action under these rules, except that the Committee may not extend the time for taking any action for which the Act specifies a time limit.

2.4 *Where to file.* Documents required to be filed with the Committee shall be filed at the offices of the Senate Select Committee on Ethics, Hart Senate Office Building, Room 220, Washington, D.C. 20510. Documents required to be filed with or served on the Office shall be filed or served at the Office of Senate Fair Employment Practices, Hart Senate Office Building, Suite 103, Washington, D.C. 20510.

RULE 3. REQUESTS FOR COMMITTEE REVIEW OF HEARING BOARD DECISION

3.1 *Requirements for Filing a Request for Review.*

(a) *Who May Request Review of a Hearing Board Decision.* An employee or the head of an employing office with respect to whom a hearing board decision was issued is a party entitled to request Committee review of that decision. The Office may also request review of a decision.

(b) *Request by a party.* Not later than 10 days after receipt of a decision of a hearing board, including any decision following a remand of the case as provided in Rule 4.2(c), a party may file with the Office a request that the Committee review the decision. A request for review shall specify the party requesting review, and shall designate the decision, or part thereof, for which review is requested. A request for review must be received in the Office not later than the 10th day after the date of receipt of the hearing board decision [a postmark on the 10th day will not satisfy this timeliness requirement.] Within 24 hours after receipt of a request for review, the Office shall transmit a copy of such request to the Committee and serve a copy on any other party.

(c) *Request by the Office.* The Office, at the discretion of its Director, on its own initiative and for good cause, may file with the Committee a request for review of a hearing board decision, including any decision following a remand of the case as provided in Rule 4.2(c), not later than 5 days after the

time for the parties to file a request for review with the Office has expired. A request for review shall specify that the Office is requesting review, shall designate the decision, or part thereof, for which review is requested, and shall specify the circumstances which the Office asserts constitute good cause for the request. A request for review by the Office must be received in the Committee's office not later than the 5th day after the time for the parties to file a request for review with the Office has expired [a postmark on the 5th day will not satisfy this timeliness requirement.] Within 24 hours after filing a request for review with the Committee, the Office shall serve a copy of such request on all parties.

3.2 *Transmittal of Record.* As soon as possible, and in no event later than 10 days after receipt by the Office of a request for review or the Office's filing of a request for review with the Committee, the Office shall transmit to the Committee the full and complete record of the hearing board connected with the decision for which review has been requested. The Chief Clerk of the Committee shall promptly serve notice of the Committee's receipt of the record on all parties.

RULE 4. PROCEDURES UPON RECEIPT OF A REQUEST FOR REVIEW OF A HEARING BOARD DECISION

4.1 *Briefs and Arguments.*

(a) *Petitioner brief.* A party who filed a request for review, or the Office if it requested review, may file a brief in support of its position. The brief shall be filed with the Committee and a copy served on any other party and the Office, if it requested review, within 10 days of the filing of the request for review with the Office, or the Committee if the Office requested review.

(b) *Respondent brief.* A party may file a brief in response to a petitioner's brief. Such respondent brief shall be filed with the Committee and a copy served on any other party and the Office, if the Office filed a request for review, within 15 days after service of the petitioner brief. If no petitioner brief is filed, such respondent brief shall be filed within 20 days of filing of the request for review. The Office may file a respondent brief only if it failed a request for review.

(c) *Reply brief.* Any reply brief shall be filed with the Committee and served on all parties and the Office if it requested review, within 5 days after service of the respondent brief to which it replies. No one may file a reply brief who did not file a petitioner brief.

(d) *Alternative briefing schedule.* With notice to all parties and the Office, if it requested review, the Committee may specify a different briefing schedule than that prescribed by subsections 4.1 (a), (b) and (c).

(e) *Additional briefs.* At its discretion, the Committee may direct or permit additional written briefs.

(f) *Requirements for briefs.* Briefs shall be on 8½ inch by 11 inch paper, one side only, and 15 copies shall be provided. No brief shall exceed 50 typewritten double spaced pages, excluding any table of contents, list of authorities, or attached copies of statutes, rules, or regulations. Footnotes shall not be used excessively to evade this limitation. All references to evidence or information in the record must be accompanied by notations indicating the page or pages where such evidence or information appears in the record.

(g) *Oral argument.* At the request of a party or the Office, the Committee may permit oral argument in exceptional circumstances. A request for oral argument must specify the circumstances which are asserted to be exceptional.

4.2 *Remand.*

(a) *Only one Remand.* There are two kinds of remand. The Committee may remand the

record respecting a decision, or it may remand the case respecting a decision, but in no event can there be more than one remand with respect to a decision of a hearing board. If the Committee remands the record respecting a decision, there can be no further remand of any kind with respect to such decision. If the Committee remands the case respecting a decision, there can be no remand of any kind with respect to a hearing board decision issued following remand. A Committee decision remanding to the hearing board shall contain a written statement of the reasons for the Committee decision.

(b) *Remand of the Record.* Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the record of a decision to the hearing board for the purpose of supplementing the record. After the hearing board has supplemented the record as directed by the Committee, the hearing board shall transmit the record to the Office, and the Office shall immediately notify the parties of the hearing board's action and transmit the supplemented record to the Committee. The Committee retains jurisdiction over a request for review during remand of the record, and no new request for review is needed for further Committee consideration under section 308 of the Act. A record shall be deemed remanded to the hearing board until the day the Committee receives the supplemented record from the Office, and the Committee shall transmit a written final decision to the Office not later than 60 calendar days during which the Senate is in session after receipt of the record as supplemented on remand. The Committee may extend the 60 day period for 15 days during which the Senate is in session.

(c) *Remand of the Case.* Within the time for a decision under subsection 308(d) of the Act, the Committee may remand the case to the hearing board for the purpose of further consideration. After further consideration, the hearing board shall issue a new written decision with respect to the matter as provided in section 307 of the Act. If the Committee remands the case to the hearing board, the Committee does not retain jurisdiction, and a new request for review, filed in accordance with Rule 3, will be necessary if a party or the Office seeks review of a decision issued following remand.

4.3 *Final Written Decision.* All final decisions shall include a statement of the reasons for the Committee's decision, together with dissenting views of Committee members, if any, and shall be transmitted to the Office not later than 60 calendar days during which the Senate is in session after filing of a request for review. The period for transmission to the Office of a final decision may be extended by the Committee for 15 calendar days during which the Senate is in session. A final written decision of the Committee with respect to a request for review may affirm, modify, or reverse the hearing board decision in whole or in part. The Committee may decide not to grant a request for review of a hearing board decision. The Committee will serve a copy of any final decision on all parties.

RULE 5. HEARING BOARD REFERRAL OF TESTIMONIAL OBJECTIONS

5.1 *Procedure for Ruling on Testimonial Objections.* If any witness to a hearing board proceeding appearing by subpoena objects to a question and refuses to testify, or refuses to produce a document, a hearing board may refer the objection to the Committee for a ruling. Such referrals may be made by telephone or otherwise to the Chairman or Vice Chairman of the Committee who may rule on the objection or refer the matter to the Committee for decision. If the Chairman or Vice Chairman, or the Committee upon referral,

overrules the objection, the Chairman or Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee, or the Chairman or Vice Chairman, shall rule on objections as expeditiously as possible.

5.2 Enforcement. The Committee may make recommendations to the Senate, including recommendations for criminal or civil enforcement, with respect to the failure or refusal of any person to appear or produce documents in obedience to a subpoena or order of a hearing board, or for the failure or refusal of any person to answer questions during his or her appearance as a witness in a proceeding under section 307 of the Act. The Office shall be deemed a Senate committee for purposes of section 1365 of Title 28 of the United States Code.

RULE 6. MEETINGS AND VOTING

6.1 Quorum, Proxies, Recorded Votes. A majority of the members of the Committee shall constitute a quorum for purposes of issuing a decision under section 308 of the Act, and for purposes of hearing oral argument if such argument is permitted. Proxy votes shall not be considered for the purpose of establishing a quorum, nor for purposes of decisions under section 308 (c) and (d) of the Act. Decisions of the Committee under section 308 (c) or (d) of the Act shall be by recorded vote.

6.2 Meetings. Meetings to consider matters before the Committee pursuant to the Act may be held at the call of the Chairman or Vice Chairman, if at least 48 hours notice is furnished to all Members. If all Members agree, a meeting may be held on less than 48 hours notice.

RULE 7. CONFIDENTIALITY OF PROCEEDINGS

Confidentiality. The final written decision of the Committee shall be made public if the decision is in favor of a Senate employee who filed a complaint or if the decision reverses a decision of the hearing board which had been in favor of the employee. The Select Committee may decide to release any other decision at its discretion. All testimony, records, or documents received by the Committee in the course of any review under these rules shall otherwise be deemed "Committee Sensitive Information" and subject to the "Non-Disclosure Policy and Agreement" as prescribed in Rule 9 of the Committee's Supplemental Rules of Procedure.

RULE 8. AUTHORITY TO DISCIPLINE

Official Misconduct. None of the provisions of the Act or these rules limit the authority of the Committee under S. Res. 338, 88th Cong., 2d Sess. (1964), as amended, to otherwise review, investigate, and report to the Senate with respect to violations of the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate.●

VIOLENCE ON TELEVISION INITIATIVE

● Mr. GRAHAM. Mr. President, a recent report by the Journal of American Medicine estimates that the average American child has watched 100,000 acts of violence by the end of elementary school—including 8,000 murders. By 18, the average child has watched 200,000 acts of violence and 40,000 murders.

Parents are rightly concerned. As a father of four and a grandfather of four, with four more on the way, I am concerned.

Over the past year, Congress has begun to respond. We are asking whether it is appropriate to get involved on behalf of the interests of Children. Broadcasters are also beginning to pay attention. Last year, cable and broadcasting outlets agreed, with encouragement from Congress, to allow an independent monitor to review their programming for violence. While the monitoring project is underway, the debate continues over whether Congress should regulate violence on television.

I believe that if the Federal Government plans to become involved in this issue—which may be appropriate—the Federal Government must first lead by example.

That's why I have asked the three agencies, or federally related companies, that spend the most money per year on TV advertising, to join me in developing a uniform policy regarding advertising on violent television programming.

The three groups are the Department of Defense, which spent \$37.3 million last year on television advertising, the U.S. Postal Service, which spent \$22.9 million on television advertising last year, and Amtrak, which spent \$8.1 million.

I was glad to learn that the Department of Defense, the Postal Service, and Amtrak all have existing policies in place to monitor their advertising. Our goal in asking these three entities to sign this pledge is to reaffirm their commitment by agreeing on a uniform policy defines violence and establishes a common goal for spending their advertising dollars.

We define violence as "an act perpetrated on another person or persons with the specific intent to cause physical harm, injury and/or death."

And we consider programs violent if they contain violence which is inappropriate or unnecessary to the story.

Generally, our definition excludes documentary programs, including news and sporting programs.

This is not censorship. This is a voluntary agreement among Federal, or federally related entities to act in the best interest of Americans.

In voluntarily signing this pledge, the Department of Defense, the Postal Service, and Amtrak are sending an important message—that various elements of the Federal Government can work effectively together in the best interests of Americans. And they are saying we can accomplish worthwhile goals—such as limiting violence on television—without new legislation and regulations.

Our next goal is to encourage other agencies, and private companies to follow this example, and to take responsibility for the placement of their television advertisements.

Four reputable groups with an interest in the TV violence issue support our initiative. They are: Americans for Responsible TV; the National Coalition on TV Violence; the National Edu-

cation Association; and the National PTA.

Finally, Mr. President, I would like to thank the representatives from the Department of Defense, the Postal Service, and Amtrak for attending this morning's announcement. Their cooperation and leadership in this initiative testifies to their concern about violence on television.●

TRIBUTE TO KELLER GEORGE

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Keller George, who was recently elected president of the United South and Eastern Tribes.

Mr. George, a resident of Oneida, NY, is a member of the Onieda Indian Nation, a nation whose triumphant history includes playing an integral part in the victory of the colonists during the American Revolutionary War. Onieda Indians brought food to the American Army during the harsh winter at Valley Forge, and fought by their side at the Battle of Oriskany. The epic battle that took place at Oriskany represented a partnership between native Americans, Europeans, and Americans for freedom and self-determination. The battle was the bloodiest in the revolution.

Mr. George has quite an impressive and extensive résumé in serving both the United States of America and the Onieda Indian Nation. For over 20 years he was a member of the U.S. Air Force. Mr. George has been a businessman, managing the Onieda Nation's first smokeshop. He currently holds the position of special assistant to Onieda Nation representative Ray Halbritter. But that only scratches the surface of Mr. George's substantial role as a leader in the Onieda Nation. He is also first representative for the Onieda Nation's sovereign housing authority, first representative and treasurer for the Onieda Indian Nation Gaming Commission, a member of the Onieda Nation's men's council, a member of the board of directors for the National Indian Gaming Association, and vice president of the northeastern area of the National Congress of American Indians.

Now Mr. George has risen to the position of president of the United South and Eastern Tribes. The United South and Eastern Tribes is composed of 21 tribes whose purpose is to provide leadership for its member tribes and to advance the causes of all native Indians. Mr. President, all Americans can relate to these causes. They include providing educational opportunity and promoting understanding among the general public of the achievements of their member tribes. I can think of no other person who is more qualified and more deserving of such a position as Keller George.

I congratulate him on this tremendous achievement, and wish him the best of luck in his new position.●